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10/642,904	08/18/2003	Marcus Gerrard Lindsey		3198

7590 03/24/2006  
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EXAMINER

BLAU, STEPHEN LUTHER

ART UNIT PAPER NUMBER

3711

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/642,904

Applicant(s)

LINDSEY, MARCUS GERRARD

Examiner

Stephen L. Blau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 6-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 8/18/03 as amended 11/19/04 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings stand objected to under 37 CFR 1.83(a) because they fail to show how to seal a tubular single piece of material to the handle at only a top and bottom of a grip as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The specification is objected to under 37 C.F.R. rule 1.71 as not being written in a full, concise and exact terms as to enable one skilled in the art to make the same. Specifically it is uncertain how to seal a tubular single piece of material to the handle at only a top and bottom of a grip.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1 and 3-5 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically it is uncertain how to seal a tubular single piece of material to the handle at only a top and bottom of a grip as stated in claim 1. The drawings do not show this and the specification does not talk about how to do this.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (5,355,552) in view of Koch.

Huang discloses a handle in the form of a solid core (201, Figs. 22-26) for a sports implement (Col. 6, Lns. 4-5), a grip comprising an outer layer (205) and an internal bladder (207, Col. 6, Lns. 28-36) attached to a handle (Figs. 22-26), a bladder (207) being air tight between an outer layer (205) and a handle (201), inflating the bladder to the desired size (Col. 6, Lns. 16-22), and a finger pump to introduce air being placed at a top of a handle (209)(Figs. 23 and 25).

Huang lacks a grip comprising a tubular, thin, elongated, circular, and solid piece of material placed over a handle and sealed to a handle only at a top and bottom of a grip and an air duct to pass from a finger pump down through a handle to between a handle and a grip.

Koch discloses a sports implement in the form of a golf club having a grip (54) sealed mounted to a handle/shaft (44) containing a pressurized fluid where the grip comprises a bladder in the form of a tubular, thin, elongated, circular and solid piece of material (Ref. No. 54, Figs. 8-9) placed over a handle and sealed to a handle only at a

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top and bottom of a grip (Col. 6, Lns. 2-5) containing a pressurized fluid (Col. 6, Lns. 53-68) and a duct through a handle to allow fluid to go back and forth to a pressurized area between a grip and handle (Fig. 9, Ref. No. 88).

In view of the patent of Koch it would have been obvious to modify the grip of Huang to have a grip comprising a tubular, thin, elongate, circular and solid piece of material placed over a handle and sealed to a handle only at a top and bottom of a grip in order to minimize the amount of bladder material use to form a compartment to hold pressurized air used for a grip.

In view of the patent of Kock it would have been obvious to modify the grip of Huang to have an air duct to pass a fluid from a top of a grip to pressurized area between a handle and a grip down through a handle in order to utilize an alternative way to direct pressurizing fluid to between a grip and a handle which is used in the market place and in order to have ducts which are less likely to collapse for a grip due to being in the stronger shaft material.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Huang (5,355,552) in view of Koch as applied to claims 1, 3, and 5 above, and further in view of Squadroni and admitted prior art (previous Official Notice).

Huang lacks a grip being formed of rubber.

Squadroni discloses a grip (Fig. 2) with a portion of it being an inflated elastic material (Claim 3). Due to not arguing with the previous Examiner's Official Notice, it is admitted that it is well known to have rubber material as an inflatable elastic material. In

view of Squadroni and admitted prior art it would have been obvious to modify the inflatable tubular grip of Huang to be made of rubber in order to utilize an inflatable elastic material used in the market place for inflating.

8. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landsberger in view of Squadroni or Koch.

Landsberger discloses an implement having a handle (14), and adjustable air-tight grip attached to the handle, a grip comprising a tubular solid, single piece of material placed over the handle (Fig. 4), means to introduce air between a grip and a handle (6) for inflating the grip to the size desired and means to release the air between the grip and a handle to commensurate with the manual capabilities of a user (Col. 1, Lns. 34-50) in order to have totally resilient handle providing maximum degree and comfort and utility for those with poor hand muscle or motor control as arthritic conditions (Col. 1, Lns. 1-22).

Landsberger lacks a sports implement, a grip material sealed to a handle only at the top and bottom of a grip, and a grip being circular. Squadroni discloses a sports implement (Col. 1, Lns. 11-15) where a circular (Fig. 4) tubular solid piece of material (15) is placed over a core shaft of a handle (12) where the grip material is sealed only on at a top and bottom of the handle area (Fig. 1) for inflating with air (Col. 1, Lns. 30-36). Kock discloses a sports implement (Fig. 2) where a circular (Fig. 8) tubular solid piece of material (54) is placed over a core shaft of a handle (44) where the grip material is sealed only on at a top and bottom of the handle area (Fig. 9) for filling with a

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fluid to pressurize a grip (Col. 6, Lns. 34-44). In view of Squadroni or Koch it would have been obvious to modify the implement of Landsberger to be for a sports device with a grip being circular in order to provide a grip for a sporting device having a circular handle to commensurate with the manual capabilities of a user having a totally resilient handle and providing maximum degree and comfort and utility for those with poor hand muscle or motor control as arthritic conditions. In view of Squadroni or Koch it would have been obvious to modify the implement of Landsberger to have a grip material sealed to a handle only at the top and bottom of a grip in order to minimize the amount of grip material needed to hold fluid in the form of air used for a grip.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landsberger in view of Squadroni or Koch as applied to claims 1 and 3 above, and further in view of admitted prior art (previous Official Notice).

Landsberger discloses a grip being made of any suitable gauge inflatable material providing continuous inflating and leak proof (Col. 1, Lns. 35-50).

Landsberger lacks a grip being formed of rubber.

Squadroni discloses a grip (Fig. 2) with a portion of it being an inflated elastic material (Claim 3). Due to not arguing with the previous Examiner's Official Notice, it is admitted that it is well known to have rubber material as an inflatable elastic material. In view of Squadroni and admitted prior art it would have been obvious to modify the inflatable grip of Landsberger to be made of rubber in order to utilize an inflatable elastic material used in the market place for inflating.



10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landsberger in view of Squadroni or Koch as applied to claims 1 and 3 above, and further in view of Huang (5,355,552).

Landsberger lacks a means to introduce air being a finger pump placed at a top of a handle, an air duct to pass from a finger pump down through a handle to between a handle and a grip.

Kock discloses a duct through a handle to pass a fluid to pressurize an area between a grip and handle (Fig. 9, Ref. No. 88). Huang discloses a source of introducing a pressurized fluid between a grip and a handle being a finger pump (209). In view of the patent of Huang it would have been obvious to modify the sports element of Landsberger to have a means to introduce air being a finger pump placed at a top of a handle in order to prevent one from having to use their mouth to pressurize the area between the grip and the handle. In view of the patent of Kock it would have been obvious to modify the sports element of Landsberger to have an air duct to pass a fluid from a top of a grip to pressurized area between a handle and a grip down through a handle in order to utilize a known way to direct pressurizing fluid to between a grip and a handle which is used in the market place.

***Response to Arguments***

11. The explanation of how the tubular grip is secured to the shaft of a golf club with dual tape was not in the specification. The applicant elected the tubular embodiment of figures 1-2 in response to the restriction requirement dated 5 August 2004 and subsequent response noted in the Office Action dated 20 September 2004. The specification does not disclose how to attaché this tubular grip onto a shaft at the ends of the grip. This would appear to be critical to the success of the invention. As such the examiner considers the specification including drawings as not being enabling to one skilled in the art to make the invention. The argument that Huang does not state that the grip is for a golf club but for a tennis racket is agreed with. However a tennis racket is a sports implement which is claimed in the claims. In addition, grips among sporting implements as tennis rackets and golf clubs are very similar in structure and function as such many teachings of either type of grip can be used for the grip of the other sporting implement. As such it is proper to combine the references of Huang which discloses a tennis racket or the like with the golf club of Kock since the grips have similar structure and function. Both grips disclose teachings for grips for sporting implements and structure for pressurized grips. Plus one skilled in the art would think it obvious to include golf clubs in the open ended statements made by Huang as to the use of the grip (i.e. "...grips for tennis rackets, badminton rackets, ...etc.," (Col. 1, Lns. 14-16), "...such as a tennis racket handle or the like" (Col. 6, Lns. 1-5)). The argument that it is improper to combine the references of Landsberger and Kock since Landsberger's grip

is for the impaired and Kock's grip is for an athletic club using a controlled force application while swinging is disagreed with. Both Landsberger and Kock are concerned with controlled force application using pressurized fluid between a gripping surface and a handle. Landsberger and Kock show two different types of ways attaching the gripping surface to a handle. It would be obvious to interchange them utilizing the advantages of each way of attachment. Kock has the advantage of minimizing the bladder material and Landsberger shows how to simplify the assembly and manufacturing process by having fewer parts. With respect to the applicant's comment in the submission of replacement sheet it is not understood. No new drawings were submitted in the last response dated 29 December 2005.

12. This **ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


**Conclusion**

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen L. Blau whose telephone number is (571) 272-4406. The examiner can normally be reached on Mon - Fri 10:00 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571) 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

slb/ 20 March 2006

  
**STEPHEN BLAU**  
**PRIMARY EXAMINER**